

FILED 08 MAR 31 15:09 USDC-ORN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

BILLY L. BROSOWSKE,	)	Civil No. 07-94-CL
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	
MARION COUNTY SHERIFF DEPUTY	)	
DINARDO, et al.,	)	
	)	
Defendants.	)	
	)	

---

**PANNER, Judge.**

Plaintiff Billy Brosowske brings this civil rights action, *pro se*, alleging that Marion County Correctional Facility deputies beat and pepper sprayed him, placed a bag over his head so he had difficulty breathing, and then left him in that condition in a small cell for ten hours, covered in pepper spray.

The court approved Brosowske's request to proceed *in forma pauperis* and directed him to complete and return the summons forms so the Marshal could serve the Complaint. The forms were not timely received. The Clerk was then directed to send another set of blank forms to Brosowske. The court also warned Brosowske that failure to return the completed forms within 30 days would result in dismissal of his Complaint for failure to prosecute. No response was received.

On March 10, 2008, Magistrate Judge Clarke issued his Report and Recommendation. The matter is now before me for de novo review pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).


Judge Clarke recommends that this action be dismissed for failure to prosecute. I agree. Pursuant to Fed. R. Civ. P. 4(m), the dismissal is without prejudice.

Conclusion

Judge Clarke's Report and Recommendation (# 15) are adopted. The Complaint is dismissed without prejudice for failure to prosecute.

IT IS SO ORDERED.

DATED this 31st day of March, 2008.

  
Owen M. Panner  
United States District Judge